

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN DON HARGROVE**, on February 19, 2001 at 3:00 A.M., in Room 335 Capitol.

ROLL CALL

Members Present:

Sen. Don Hargrove, Chairman (R)
Sen. John C. Bohlinger, Vice Chairman (R)
Sen. Edward Butcher (R)
Sen. Pete Ekegren (R)
Sen. Jim Elliott (D)
Sen. Eve Franklin (D)
Sen. Ken Toole (D)

Members Excused: Sen. Fred Thomas (R)

Members Absent: None.

Staff Present: Lynette Brown, Committee Secretary
David Niss, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:
Executive Action: SJ 12, SB 473, SB 453, SB 397,
SB 396, SB 395, SB 472

{Tape : 1; Side : A; Approx. Time Counter : 0}

EXECUTIVE ACTION ON SJ 12

Motion/Vote: SEN. ELLIOTT moved that SJ12 BE ADOPTED. Motion carried unanimously.

EXECUTIVE ACTION ON SB 473

Motion/Vote: SEN. EKEGREN moved that SB 473 DO PASS. Motion carried unanimously.

EXECUTIVE ACTION ON SB 453

Motion/Vote: SEN. EKEGREN moved that SB 453 DO PASS. Motion failed 3-5.

EXECUTIVE ACTION ON SB 397

Discussion:

SEN. JIM ELLIOTT was concerned that these bills came late with a limited amount of time to study the bill.

SEN. JOHN BOHLINGER said the system worked, so why try to fix it.

SEN. PETE EKEGREN stated that if you get away from the electoral college, then you get away from protecting Montana. He added that it was easy for the legislators from larger towns because their districts were represented in the initiative process, but he was concerned about the representation from the rural areas or smaller towns. SEN. EKEGREN said the present system did not need the small towns for the initiative process and he wanted them to be represented also. He said there was nothing wrong with attempting to protect the smaller towns.

SEN. BOHLINGER said the process was difficult and cumbersome, so the people should be able to go to areas with larger concentrations of people to get the votes for the initiatives.

SEN. EKEGREN said if the process was cumbersome, that's ok as long as the rural people and smaller towns were represented too.

SEN. BOHLINGER told the committee that once the initiative had qualified for the ballot, then it was submitted to all the voters in the state of Montana. The rural areas would have an opportunity to vote on the issue then.

SEN. EKEGREN asked the committee why should the population in eastern Montana be ignored to get to that point? Why shouldn't they be included in the whole process? SEN. EKEGREN told SEN. BOHLINGER that they would agree to disagree.

SEN. JIM ELLIOTT presented the committee with a map of counties in Montana **EXHIBIT(sts41b01)**. He added that since you would need a certain percentage of votes anyway, you would probably go to the larger counties anyway in order to be easier to gather the votes.

SEN. ELLIOTT stated that there were a variety of opportunities for people to participate in the process. He added that he understood and was sympathetic to the intent, but felt this bill would not change much.

SEN. DON HARGROVE told the committee it was easier to do big cities because of more people being available, and the seven biggest cities in Montana totally overpower the rest of the state. Many times, those are the only areas you need to complete the initiative process. **SEN. HARGROVE** stressed to the committee that this was a big issue and needed to be discussed by the senate floor instead of just this committee. He added that sometimes 90% of the signatures came from Billings and Missoula and that it was a tragedy that 24 counties were not represented at all.

Motion/Vote: **SEN. EKEGREN** moved that **SB 397 DO PASS**. Motion failed 4-4.

{Tape : 1; Side : B; Approx. Time Counter : 0}

EXECUTIVE ACTION ON SB 396

Motion/Vote: **SEN. ELLIOTT** moved **SB 396**. Motion carried 5-3.

EXECUTIVE ACTION ON SB 395

Motion/Vote: **SEN. EKEGREN** moved that **SB 395 DO PASS**. Motion failed 4-4.

EXECUTIVE ACTION ON SB 472

Motion: **SEN. EKEGREN** moved that **SB 472 DO PASS**.

Discussion:

David Niss, legislative services, said **amendment SB047201.adn EXHIBIT(sts41b02)**, did three different things: (1) it amended the section of law dealing with the initial receipt by the Secretary of State of the petitions. That section had been amended to require up-front 50 signatures before the Secretary of State received them. He said this made it clear that those 50 signatures were to be the original signatures. (2) Paragraph 2 adds to the list of items to be included in the affidavit to be attached to the petition; this added the statement of if someone was paid for all or some of the signatures. (3) The last two paragraphs were for the purpose of clarity only.

Motion/Vote: SEN. ELLIOTT moved to **SEGREGATE #2 OF AMENDMENT SB047201.ADN DO PASS. Motion carried unanimously.**

Motion/Vote: SEN. ELLIOTT moved that **SECTIONS #1,3, AND 4 OF AMENDMENT SB047201.ADN DO PASS. Motion carried unanimously.**

Motion: SEN. EKEGREN moved that **AMENDMENT SB047202.ADN EXHIBIT(sts41b03) BE ADOPTED.**

Discussion:

SEN. ELLIOTT asked **David Niss** if this would appear on the document itself. **David Niss** answered that it would appear on the affidavit that was attached to the petition when it was turned into the Secretary of State. He said the matters to be included in the affidavit were all matters that went to the Secretary of State or county official after the signatures were gathered.

Vote: Motion that **AMENDMENT SB047202.ADN BE ADOPTED carried 5-3.**

SEN. ELLIOTT told the committee he planned to vote against the bill.

SEN. JOHN BOHLINGER applauded the attempt by SEN. GROSFIELD to bring forward a bill that required official documents to be stated in as honest and straightforward manner as possible. He expressed concern about page 18, line 28 **SB047203.adn EXHIBIT(sts41b04)**.

Motion: SEN. BOHLINGER moved that **AMENDMENT SB047202.ADN BE ADOPTED.**

David Niss explained that **amendment SB047203.adn** addressed the time line. He said under the introduced bill, after the Attorney General and legislative fiscal division sent the Secretary of State their draft statements, the Secretary of State had three

days to assimilate that information and send notices to newspapers concerning the content of the petition and other administrative steps. This amendment extended that deadline from three days to ten days and the second deadline for the Secretary of State from four days to 10 days.

Vote: Motion **AMENDMENT SB047202.ADN BE ADOPTED** carried unanimously.

Motion: SEN. ELLIOTT moved that **AMENDMENT SB047203.ADN BE ADOPTED**.

David Niss explained to the committee that **amendment SB047203.adn** removed the section in which the changes in regards to voting on the constitutional amendment had to be a majority vote or those voting on the issue.

Vote: Motion that **AMENDMENT SB047203.ADN BE ADOPTED** carried unanimously.

Motion: SEN. BOHLINGER moved that **AMENDMENT SB047204.ADN EXHIBIT(sts41b05) BE ADOPTED**.

David Niss explained this amendment would strike item B, E, and F from the affidavit contents.

SEN. ELLIOTT said the signatures referred to a bill that was already passed out of the committee.

{Tape : 2; Side : A; Approx. Time Counter : 0}

Vote: Motion that **AMENDMENT SB047204.ADN BE ADOPTED** carried unanimously.

Motion: SEN. EKEGREN moved that **AMENDMENT SB047205.ADN EXHIBIT(sts41b06) BE ADOPTED**.

David Niss said as introduced, the bill required the Attorney General to make two determinations as to the legality of the petition: (1) the Attorney General had to determine whether the bill to be petitioned complied with the statutory and constitutional requirements concerning submission of the petition to the Secretary of State, and if the Attorney General decided at that point that the submitted did not comply with those statutes and constitutional provisions dealing with ballot issues, then the petition would stop there, not going forward, and (2) the attorney general would have to make the determination regarding the compliance of the idea in the petition. **David Niss** told the

committee that **amendment SB047205.adn** would leave that initial determination by the Attorney General in place, but required that conclusions drawn by the legislative services division of the legality of the substance of the petition gets sent to the attorney general and rather than make an independent legal conclusion, the Attorney General would have to review the conclusions arrived at by the legislative services division and the basis for those conclusions stated in the correspondence between the legislative services division and the petitioner. **Mr. Niss** said the Secretary of State had to make his determinations of whether or not to certify a statement to the ballot that the substance of the petition may be unconstitutional on the basis of the correspondence between legislative services and the petitioner.

Vote: The motion that **AMENDMENT SB047205.ADN BE ADOPTED** carried 5-3.

Motion: **SEN. BOHLINGER** moved that **SB 472 DO PASS AS AMENDED**.

Discussion:

SEN. ELLIOTT told the committee that the question of constitutionality could only be decided by the courts. **SEN. ELLIOTT** felt this would lessen the number of people who sign the petitions. Another reason he opposed this bill was because citizens had every right to bring an issue before the people, regardless of how far out the idea was. He add that this bill was well intended.

SEN. BOHLINGER stated that this bill would attempt to give a stamp of official recognition that it was straightforward and truthful. He added that the number of words allowed had been expanded which would enable people to state their issues more clearly.

SEN. ELLIOTT said the rulings should be the same for legislators as for the public.

SEN. HARGROVE told the committee that he supported this legislation. He reminded the committee that the legislators had a check and balance system in place with each other and that many lawyers were available to guide the legislators in regards to legality issues. The public, however, did not have this form of checks and balances.

SEN. ELLIOTT said the checks and balances system in the initiative process was the good sense of the Montana public.

Vote: Motion that SB 472 DO PASS AS AMENDED carried 5-3 with Elliott, Franklin, and Toole voting no.

ADJOURNMENT

Adjournment: 4:10 A.M.

SEN. DON HARGROVE, Chairman

LYNETTE BROWN, Secretary

DH/LB

EXHIBIT (sts41bad)